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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,394	01/05/2001	Tomoyuki Nishimura	Q62564	3829
7590 10/20/2004				
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Washington, DC 20037-3202				
EXAMINER				
SELBY, GEVELL V				
ART UNIT		PAPER NUMBER		
2615				

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/754,394

Applicant(s)

NISHIMURA, TOMOYUKI

Examiner

Gevell Selby

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 is/are allowed.
- 6) ☒ Claim(s) 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/04 has been entered.

### *Response to Arguments*

2. Applicant's arguments, see the amendment, filed 8/25/04, with respect to the remarks on pages 14-15 of the amendment have been fully considered and are persuasive. The rejection(s) of claim(s) 1-12 and 14-17 under 35 U.S.C. 102(b) and claim 13 under 35 U.S.C. 103(a) have been withdrawn.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kunishige et al., US 5,634,148.**

In regard to claim 18, Kunishige et al., US 5,634,148, discloses a method of identifying a position of a movable lens in an image device, comprising:

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preparing a first area (before wide end position) having a first reflecting part (see figure 13, element 130a), a second area (between wide end and tele end positions) having a second reflecting part (see figure 13, element 131a), and a third area (after standard end position) having said first reflecting part (see figure 13, element 130b) in order, respectively;

detecting the first reflecting ratio at a start position (see column 12, lines 19-25);

moving the movable lens from said start position in a direction from said first area to said third area when said detected reflecting ratio is of said first reflecting part (see column 12, lines 31-35);

detecting a second reflecting ratio after moving the moveable lens (see column 12, lines 34-38);

and determining that the movable lens part was located at said third area in said start position, prior to being moved, when said second reflecting ratio remains substantially constant (see column 12, lines 42-48).

In regard to claim 19, Kunishige et al., US 5,634,148, discloses a method of identifying a position of a movable lens in an image device as claimed in claim 18, further comprising:

determining that the movable lens part was located at said first area in said start position, prior to being moved, when said second reflecting ratio changes from said first reflecting part to second reflecting part (see column 11, line 66 to column 12, line18)

***Allowable Subject Matter***

5. Claims 1-17 allowed.

In regard to claims 1-17, the prior art does not disclose the limitations of “a state indication part having arranged in order thereof first, second, and third areas, said first area, including a first reflecting part and a third reflecting part, each repeatedly provided for indicating a first state to said detection part, said second area, including said first reflecting part and a second reflecting part, each repeatedly provided for indicating a second state to said detection part, and said third area, including said second reflecting part and said third reflecting part, each repeatedly provided for indicating the first state to said detection part”.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art discloses zoom encoders with photo reflectors:

US 5,073,790,

US 5,287,137,

US 6,097,548,

US 5,432,574.

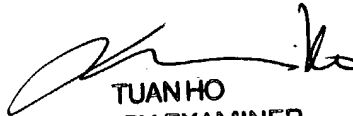
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 703-305-8623. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs

  
TUAN HO  
PRIMARY EXAMINER